IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2719 OF 2006

Abdul Naseer Abdul Jalal — Petitioner
vs.
The State of Maharashtra & anr. — Respondents

Mr.K.K. Pendse for Ms.Jyoti Chavan for the petitioner.

Ms.A.S.Pai, APP for State.

CORAM : SMT.RANJANA DESAI &
ANOOP V. MOHTA,JJ.

DATED : 13th February, 2007

P.C.

The petitioner claims to be a member of Non-Governmental Organisation namely; Citizen for Justice of Peace. He is a resident of Mahad. His case is that illegal activities involving the excavation of sand from the riverbed of Savitri River and Bankot are being carried out by M/s.Konark Infrastructure Pvt.Ltd. with the aid and abetment of (i) Port Officer Bankot, ii) Sub-Divisional Officer, Dapoli, iii) Commissioner, Konkan Division, iv) Collector, Ratnagiri and v) Collector Alibaug. The petitioner having learnt about the commission of this offence, preferred a private complaint before the Judicial Magistrate, First Class, Dapoli under Sections 379, 441, 447, 120-B read with 34 of the Indian Penal Code. On 3.1.2007 the learned Magistrate passed an order under Section 156(3) of Code

of Criminal Procedure. He gave a direction to respondent 2- Senior Inspector of Police, Mandangad Police Station, Raigad to submit a report on or before 3.1.2007. According to the petitioner, this order passed by the learned Magistrate has not been followed by the police in letter and spirit. Respondent 2 has failed to investigate the petitioner's complaint. Their approach is high-handed and partial. The police have not taken effective measures to book the real culprit. In the circumstances, it is prayed that either CBI or the State CID or any other independent investigation agency be directed to carry out investigation and file report under Section 156(3) of Code of Criminal Procedure.

2. We have heard the learned counsel for the petitioner. He has reiterated the same grievance which is made in the petition. He submitted that the crime involved is serious. It affects the national resources which are being depleted. He submitted that the police have shown total inaction and, therefore, it is necessary that this case should be transferred either to CBI or State CID.

3. We have also heard the learned APP Mrs.Pai. She has drawn our attention to the affidavit of H.G. Jamadar, Police Sub-Inspector, Mandangad Police Station, Dist.

Ratnagiri. She submitted that the allegation that the police have not carried out investigation is false. Police have in fact carried out investigation and it is evident from the affidavit of Mr. Jamadar. She submitted that however considering the nature of the crime, the investigation may be transferred to State CID.

4. We have perused the affidavit of Shri H.G. Jamadar. We find from the contents of the affidavit that the police have taken some steps in the investigation. However, we do feel that investigation must progress expeditiously and in right earnest. There should be no lethargy or inaction. We find substance in the submission of Mrs.Pai, the learned APP which is supported by the affidavit of Shri H.G.Jamadar that since the persons against whom allegations are made are beyond the jurisdiction of District Ratnagiri, investigation may take time and hence it should be transferred to State CID. Considering the vast nature of investigation, we feel that the prayer made by the petitioner in the petition which is also conceded by the State should be granted.

5. We, therefore, direct that the investigation of M.A. No.122/2006 at present being investigated by Mandangad Police Station, be transferred to State CID. The State

CID shall carry out thorough investigation and shall interrogate all necessary persons and submit its report to the learned Magistrate as ordered. We expect the State CID to carry out the investigation effectively and not to give cause for filing a fresh petition making allegation of laxity on the part of police. The nature of this offence demands thorough and proper investigation.

6. Writ Petition is disposed of in the above terms.

[SMT.RANJANA DESAI,J.]

[ANOOP V. MOHTA,J.]